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Division of Housing Policy Development
P.O. Box 952053
Sacramento, California 94252-2053



Thank you for submitting the annual progress report on
your jurisdiction's housing element for the period of

Fiscal yr 2005-2006

The report was received by the department on

12/21/06

Submission of the annual progress report satisfies one of
the eligibility requirements for the Department's Workforce
Housing Reward Program.

If you have any questions or would like additional
information on the Workforce Housing Reward Program,
please contact us at (916) 445-4728 or visit our website at
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City of Berkeley Housing Element: Summary of Implementation Program, 2001-2006 2006 Progress Report

Goals/Programs	Responsible Agency	Unit of Measure/ Potential Action	2007 Target	Actions Taken to Implement Program by December 2006	Assessment of Effectiveness of Actions/ Outcomes
Units At Risk of Conversion	Housing Department/ BHA	Net change in units at risk	0	Ongoing monitoring	Since 2001, no project-based Section 8 units or properties from the City's 2001 Housing Element Table 39 have converted, or provided required notice of intent to convert. The property that did convert is now in contract for acquisition as 100% affordable housing by a Berkeley-based non-profit housing developer and manager, Affordable Housing Associates, Inc.
Housing Trust Fund	Housing Department	Units affordably subsidized	350	Ongoing - two requests for proposal processes conducted in FY 2003 and FY 2005. Next round is anticipated for FY 2007 at earliest.	12 projects involving 465 new units have received funding reservations during these two rounds, and \$17 million has been reserved for new construction.
Housing Trust Fund and Inclusionary Ordinance	Housing Department	Review and amendment of housing cost/square footage guidelines	Completed	Amended April 16, 2002, Council Resolution No. 61,497-N.S.	New approach to rent and sale price calculations creates larger gradient between large (>1,000 square feet) and small units (<700 square feet) than older scheme. No change in income guidelines from 2004 to 2005 by HUD.
Inclusionary Housing Ordinance	Planning & Housing Depts.	Revisions to Ordinance	Year 2002-03	Condo pricing amendments adopted January 27, 2004. This provision sunset in early 2006, however, and the City of Berkeley amended its inclusionary ordinance in 2006 to restrict condominium sales prices to 3 times 80 percent of AMI. The City also adopted its first in-lieu fee option so that developers may choose to pay a fee to the City's Housing Trust Fund rather than incorporate inclusionary housing units in their properties.	Developer interest in developing condominium projects significantly increased during 2004, and has continued into 2005. About 10 projects are in the City's permit review process representing 667 new condominium units for Berkeley. Other properties may convert to condominium ownership to meet increased demand for affordable homeownership opportunities for first-time buyers.

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Condominium Conversion Ordinance	Planning & Housing Depts.	Net change in units converted to condominium ownership	98	2005: Berkeley amended its condominium conversion ordinance to reduce the affordable housing impact fee and make it financially feasible to convert 100 rental units annually to condominium form of ownership.	Additional refinements to the condominium conversion ordinance and to Planning and Development Department administrative procedures are scheduled to be addressed in late 2006 and early 2007. City staff convenes a Condominium Conversion Working Group to address administrative and coordination issues with ordinance implementation.
Energy Conservation	Housing Department	Units weatherized	300	Community Energy Services Corporation contracts with the City to operate its Home Safety and Repair Program	CESC repaired a total of 569 units between July 2002 and June of 2005. In FY 2006, CESC repaired homes of an additional 143 very low-income and senior and disabled homeowner clients.
Low-income Public Housing	BHA	Lease-up rate	95%	LIPIH units are leased up to 94.4 percent.	
Housing Maintenance					
Seniors and Disabled Home Improvement Loan Program	Housing Department	Units rehabilitated and improved	50	Ongoing program for seniors and disabled persons to obtain needed repairs and seismic retrofit of their homes.	Since 2002, SFRP has overseen rehabilitation and/or seismic retrofit of 22 units, benefiting 24 low-income individuals living in Berkeley.
Housing Code Enforcement	Housing Department	Units with outstanding violations resolved	1,750	Ongoing administration of housing code inspection services.	From the start of 2002 through June 2005, Berkeley's reactive housing code enforcement program saw 770 cases opened. These investigations revealed 4,485 housing code violations during the period, and the City was able to resolve 3,896 of them.

During FY 2006, another 183 cases were activated, with 1,445 violations revealed. Another 1,471 violations were resolved in that period. In FY 2007, year-to-date records show 88 new cases activated; 357 F15 new violations were identified, and 402 A290 other violations were resolved.

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Goals/Programs	Responsible Agency	Unit of Measure/ Potential Action	2007 Target	Actions Taken to Implement Program by December 2006	Assessment of Effectiveness of Actions/ Outcomes
Annual Housing by Program	Housing Department	Units inspected for safety	10,000	In 2001, City placed RHSP on a self- certification basis: property owners now complete a checklist of housing quality measures whenever they take on a new tenant.	From start of 2002 through June 2005, Berkeley's proactive Rental Housing Safety Program (RHSP) opened up 1,863 cases, resulting in identification of 2,282 violations. Of these, 2,218 violations were cleared and resolved during the period.
3460 Lead-Safe Practices	Housing Department	Units subject to Housing staff supervision to ensure lead-safe work practices	50	The City discontinued its lead-based paint abatement program, but has continued to comply with HUD and state requirements to ensure that federally- and state-funded rehabilitation work is handled with respect to residents' and workers' protection from lead-based paint, dust, etc.	From 2002 to 2004, the City remediated 8 properties for lead-based paint by ensuring that painting contractors have applied lead- safe work practices using CDBG funds. During 2005, the City is currently working on 12 additional properties involving a total of 15 units. Through the City's Public Health Division in FY 2006, the City coordinates lead-based paint remediation in Berkeley through the Alameda County Lead Poisoning Prevention Program, including case management of lead- poisoned children and related environmental investigations. Paint evaluations, hazard control, and clearances have been incorporated into the City's Seniors and Disabled Rehab Loan Program to comply with federal Lead-Safe Housing rules.
Lead-Safe Mitigation: Permit Fee Ver	Planning & Housing Depts.	Single family units retrofitted	1,200	The program to waive BP fees for seismic retrofit projects ended 7/1/04. Standards for retrofit are being developed.	Approximately \$675,000 in building permit fees were waived between January 2002 and July 2004; over 1,000 housing units, mostly SFDs, were retrofitted.

City of Berkeley Housing Element: Summary of Implementation Program, 2001-2006 2006 Progress Report

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Disaster Mitigation: URMs	Planning & Housing Depts.	URM buildings retrofitted	Original URM building list completed	Updated standards; Notice & Orders issued and recorded with County; warning placards provided; more than 1,000 contacts with owners, agents, etc. 10 citations issued; five new buildings added.	Inventory of Potentially Hazardous Building reduced from year 2000's 303 buildings to 48. Buildings with 12 residential units remain; down from year 2000's 543 units.
Disaster Mitigation: Soft-Story Buildings	Planning & Housing Depts.	Soft-story building strategy	Completed	Assessment completed: 397 buildings with 5 or more residential units containing about 5,000 units identified. A soft story condition is characterized by large openings for storefronts and/or parking spaces on one or more sides of the building, creating inadequate lateral support for the structure above.	In November 2005, Council passed an ordinance that within two years, owners of buildings containing 5 or more dwelling units with potentially, soft, weak or open front (SWOF) ground floors are required to provide an engineer's report to the city that analyzes the deficiencies and recommends a strengthening program to abate weaknesses. Notices have been issued to 335 buildings.
Permit Fee Waivers for Affordable Housing	Planning & Housing Depts.	Affordable units benefiting from permit fee waivers	150	The City minimizes permit fee waivers due to concern about loss of revenue; however, fee deferrals are an effective tool because they allow posponed payment until the project is completed and earns income.	Roughly \$335,000 in fees were deferred for three affordable housing projects in 2006.
Housing Trust Fund	Housing Department	New units constructed	304	Ongoing administration of the City's Housing Trust Fund providing funding to proposed housing developments in Berkeley.	Since FY 2002, 465 units in 12 projects have been approved for funding. Of these, four projects have been completed totaling 90 units (including 46 for disabled residents and 39 for seniors). Four buildings are under construction totaling 258 units (106 for senior housing, and 148 for families and artists). 4 new units of family-oriented transitional housing were completed in this period as well.

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Housing Mitigation Fees from Non-residential development	Office of Econ Development collects funds - Housing Department allocates funds	Units constructed resulting from fees based on equivalent value	50	Ongoing collection of housing in-lieu fees on non-residential development under Ordinance No. 6179 and Resolution No. 56,912-N.S.	Since FY 2002, the City collected and allocated through its Housing Trust Fund \$706,078 in housing mitigation fee revenue and used these funds to assist with construction of 4 new buildings totaling 152 units. No new revenues from this source were received during FY 2006.
Inclusionary Housing Ordinance/State Density Bonus	Planning & Housing Depts.	Restricted Units constructed	504	Ongoing administration of the City's Zoning Ordinance in the framework of State Density Bonus law, California Government Code Section 65915 et seq.	From January 2001 through December 2006, 29 projects (including ones utilizing the Inclusionary Ordinance and/or State Density Bonus law) were issued building permits for affordable units within mixed-income projects as follows: 387 VLI and LI units.
Inclusionary Housing Ordinance/State Density Bonus	Planning & Housing Depts.	Market Rate Units constructed	765	Ongoing administration of the City's Zoning Ordinance in the framework of State Density Bonus law, California Government Code Section 65915 et seq.	From January 2001 through December 2006, 29 projects (including ones utilizing the Inclusionary Ordinance and/or State Density Bonus law) were issued building permits for market-rate units within mixed-income projects as follows: 828 Moderate and Above Moderate income units.
Special Needs Housing					
Transitional Housing for Victims of Domestic Violence	Planning & Housing Depts.	Zoning revisions	Completed - no Zoning Ordinance amendments were adopted.		None.
HIV/AIDS Housing	Housing Department	Renewal and expansion of clientele	25	Program discontinued - Program clients were transitioned to Section 8 Housing Choice Vouchers.	Section 8 Housing Choice Vouchers, provide them with permanent and deeper subsidies than they received from the HIV/AIDS Housing Assistance program.

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Homelessness Prevention Program	Housing Department	Renewal and expansion of clientele	150	Ongoing administration of the HPP is contracted by the City to Eden Council for Hope and Opportunity, Inc. of Hayward.	Over FY 2004 and FY 2005, HPP provided information, referral, and cash assistance to 221 individuals and households to avoid eviction and potential homelessness. During FY 2006, another 83 low-income Berkeley residents were provided with cash grants to prevent bouts of homelessness. Another 122 persons received information and referral services from HPP.
Relocation Assistance	Housing Department	Ongoing relocation support to affected tenants of city- subsidized housing projects, fire damage, or environmental remediation problems.	75	Relocation information and referral activities are ongoing through web- based and staff-based efforts. Relocation services to tenants residing in projects to be rehabilitated and technical assistance to owners are provided.	Between 2002 and 2004, outreach and information to 15 tenants and owners facing displacement due to fire damage; 22 residents of Harrison House emergency shelter were temporarily relocated to allow UST remediation to occur; 1 tenant was displaced from a blighted property, and 52 tenants were temporarily relocated from a 60-unit building in west Berkeley undergoing rehabilitation. In FY 2005, The City responded to direct requests for assistance from 54 tenants and 11 landlords, and also coordinated temporary displacement of 91 tenants at Harriet Tubman Terrace for improvements made to each unit. Provided ongoing referrals and information to homeowners, tenants, and landlords. In FY 2006, 14 tenants facing eviction or otherwise at risk of displacement contacted the City for referrals for legal and advocacy services. In addition, 5 elderly and disabled homeowners served by the Seniors and Disabled Rehabilitation Home Loan Program received relocation assistance during FY 2006.

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Shelter Plus Care Program	Housing Department	Units assisting SPC clients	150	Ongoing administration of the Shelter Plus Care Program includes coordination of intake services by several service providers, case management, and maintenance of a stable of landlords willing to rent to formerly homeless, disabled individuals.	The Shelter Plus Care Program continues to serve 198 formerly homeless persons--the City's most important program for housing the homeless. In FY 2006, the Program exceeded its outcome goals, assisting 39 new unduplicated individuals and families. Berkeley also implemented its new Shelter Plus Care COACH grant, representing 11 new units in the program. Population targeted includes single adults with serious mental illness and/or chronic history of substance abuse, and who are frequent users of emergency medical and psychiatric services. It is anticipated these units will help with implementation of the Mental Health Services Act here in northern Alameda County.
Updating of Berkeley Homeless Plan	Housing Department	Updating	Completed	Sponsoring agencies of the <i>Alameda County-wide Homeless and Special Needs Housing Plan</i> ("Multi-Plan") released the Multi-Plan in July 2005.	The Multi-Plan was adopted by the Berkeley City Council in May 2006 on Planning Commission and Mayor's recommendation. The Multi-Plan was subsequently renamed by Alameda County. It is called "Everyone Home."
Mental Health Services Act Implementation Planning	Berkeley Mental Health Division/Housing Department	Planning	Completed plans	City of Berkeley staff from both departments participated in both Berkeley and Alameda County-wide planning efforts to implement MHSA provisions during FY 2004 and FY 2005. Plans were forwarded to the California Department of Mental Health by the July 1, 2006, deadline.	City of Berkeley plan was completed and contains alternative funding scenarios depending on outcome of funding allocation negotiations under way with Alameda County and the California Department of Mental Health.

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Homeless Management Information Systems	Housing Department	Full integration of HMIS into continuum of care operations	Operating systems	During FYs 2004 and 2005, Berkeley worked with community agencies to implement HMIS to further use of data-driven policy. During FY 2006, the City of Berkeley collaborated with Alameda County and homeless service providers to introduce InHOUSE system of MIS into agencies' operations, provide training, and troubleshoot challenges in generating service usage reports.	Together with Alameda County and City of Oakland, accomplishments include: identifying agency implementation teams; developing agency privacy notice; tailoring data elements to each individual agency's reporting requirements; creating agency dataflow charts, and a number of other agreements and consent forms needed to implement HMIS. Reports generated automatically during FY 2006.
Homeless Housing	Housing Department	TH Beds and supportive housing units constructed	50 beds and 125 units	Housing Trust Fund loan to Sankofa House, 4 units of transitional housing at 711 Harrison Street in west Berkeley, intended to serve 10 families.	Sankofa House, 4 units of transitional family housing, completed by early 2005 and placed into operation. City of Berkeley is changing policy direction, however, away from completing more transitional housing in favor of allocating resources and program effort to permanent supportive housing and "housing first" approaches to serving the segments of the homeless that are most difficult to serve.
Southside Area Plan	Planning Department and UIC Berkeley Physical & Environmental Planning Department	Relationship with the University of California and Other Public Institutions	Plan adoption by both institutions completed and adopted, implementation in progress	Draft Southside Plan available to public, and CEQA review process is nearing completion.	Status unchanged since 2005 progress report. Draft EIR is in preparation including coordination with regional transit agencies regarding transportation issues.
Fair and Accessible Housing					
Opposition to New Housing Construction	Housing Department	Berkeley actively defends affordable housing developments that face litigation on pretense of CEQA review inadequacy. Currently, a project at 1698 University is in litigation over height and massing issues.			This calendar year the City of Berkeley was not the subject of suits related to housing projects. The City worked with neighborhood organizations to redesign 1201 San Pablo a proposed 27-unit project at Harrison Street in northwest Berkeley.

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Goals/Programs	Responsible Agency	Unit of Measure/ Potential Action	2007 Target Completed	Actions Taken to Implement Program by December 2006	Assessment of Effectiveness of Actions/ Outcomes
Update Analysis of Impediments	Housing Department	Updating		Analysis of Impediments was updated during Fiscal Year 2005 as part of new 5-year <i>Consolidated Plan for Housing and Community Development, 2005-2010</i> . Fair housing issues were discussed in 2006 Annual Action Plan.	Berkeley continues to fund community service providers Housing Rights, Inc., and East Bay Community Law Center to address fair and accessible housing needs of low-income Berkeley residents.
Center for Independent Living	Housing Department	Properties with accessibility improvements completed	100	Berkeley continues to contract with the Center for Independent Living to operate the Residential Access for Disabled Persons Program (RADP) providing disabled access ramps, wheelchair lifts, and other disabled accessibility improvements at the homes of disabled Berkeley residents..	Between 2002 and June 2005, 51 units have been retrofitted with various interior or exterior improvements that increase accessibility of housing owned by low-income seniors and disabled individuals throughout Berkeley. In FY 2006, another 9 ramps and lifts for low-income and disabled Berkeley residents were completed.
Discrimination Complaints	Housing Rights, Inc./East Bay Community Law Center/ Housing Department	Complaints addressed	250	Berkeley funds Housing Rights, Inc. (HRI) to investigate and address complaints of discrimination on race and other protected classes. In addition, HRI provides outreach through public service announcements, its web site (www.housingrights.org), and tabling at local festivals. HRI also conducts workshops to educate public and government workers about fair and accessible housing law and related issues. Berkeley also funds the East Bay Community Law Center (EBCLC) to provide low and no-cost legal services to East Bay low-income communities, especially in the areas of avoiding eviction, information and outreach, counseling, direct representation and case management, negotiation, and advocacy in court and administrative proceedings.	HRI: Between 2002 and June 2005, HRI has assisted 203 clients with fair housing complaints and discrimination investigations. In FY 2006, HRI assisted 69 households with fair housing complaints. EBCLC assisted 157 clients between 2002 and June 2005 with free legal services and advocacy in the areas of housing, benefits, and HIV disease. In FY 2005, EBCLC reported serving 93 low-income Berkeley residents, 51 of which were served with CDBG funds and avoided eviction through favorable court outcomes from EBCLC intervention.

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Goals/Programs Affirmative Marketing of Vacant Subsidized Units	Responsible Agency Housing Department	Unit of Measure/ Potential Action Marketing plans monitored	2007 Target	75	Actions Taken to Implement Program by December 2006	Assessment of Effectiveness of Actions/ Outcomes
					<p>Non-profit developers of special needs housing routinely market their units through special needs service providers. For-profit developers of inclusionary units work with the City to income-quality households in advance of lease-up. For-profit developers are also referred to social service agencies and the City's Shelter Plus Care Program for new tenants.</p>	<p>This Unit of Measure should be lowered in the next Housing Element to reflect a more realistic number of properties. Berkeley experienced progress in affirmatively marketing new affordable housing units since adoption of the Housing Element in December 2001.</p> <p>Housing Trust Fund: Since 2002, 46 units are targeted to disabled individuals, 4 to homeless families as transitional housing, and 68 as senior housing. Of another 219 units in funding or permit review, 79 are targeted to senior housing.</p> <p>Inclusionary Ordinance: Since the end of 2002, 232 rental units were constructed in 4 large multi-family rental properties, of which a total of 50 units had restricted rents. Developers of these properties fill at least half them with both Section 8 and Shelter Plus Care program tenants, which are monitored by the Berkeley Housing Authority and Shelter Plus Care staff. City regulatory agreements and resale control documents require affirmative marketing and the City maintains a list of interested persons who are notified when new condominium units come up for sale. In addition, the City refers developers to agencies for qualified tenants, to the Home Buyer Assistance Center in Oakland for first-time home buyers and to the Berkeley Housing Authority's Section 8 First-Time Homebuyer's Program for potential buyers. Finally, one Section 8 tenant used the Berkeley Housing Authority's Section 8 Homeowner Purchase Program to purchase a condominium unit in 2003.</p>

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Regional Cooperation					
Regional Approach to Homelessness	Housing Department	Participation in County-wide forum	Continuing	See updating of Homeless Plan, above. Also, Berkeley annually collaborates with Oakland, Alameda County and the county-wide continuum of care council to rank proposals and coordinate submission of the County's Supportive Housing Program application.	Since 2002, these collaborative approaches have proved highly effective for Berkeley as well as other jurisdictions in Alameda County. Cumulative SHP funding from the U.S. Department of Urban Development since 2002 was \$18.3 million directly granted to Berkeley agencies, and to agencies who provided services and supportive housing to homeless people in the County, including Berkeley. In FY 2006, Berkeley agencies received another \$4.2 million in direct awards, and another \$2.32 million in indirect awards from SHP.
Regional Shelter Plus Care Activities	Housing Department	Participation in region-wide forum	Continuing	Berkeley S+C staff participate in regular ongoing regional meetings of other Shelter Plus Care Program Managers from throughout the Bay Area	The regional forum has effectively addressed common issues facing S+C programs, including Berkeley's, such as HUD's policies concerning grant program overleasings, management of waiting lists, and renewal applications.
Regional Housing Needs Allocation Process	Planning and Development Department	Meeting RHNA unit targets	1269 by the end of 2007	Ongoing administration of the City's Housing Trust Fund, Inclusionary Housing Ordinance, and state Density Bonus requirements providing funding and permit entitlements to proposed housing developments in Berkeley. City continues to monitor its own housing production.	See housing production figures above in Housing Production section of this report. Next Regional Housing Needs allocation process will commence in 2007, with eventual update of the City of Berkeley Housing Element due to State HCD in June 2009.

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Public Participation in Housing Decisions					
Housing Advisory Commission	Housing Department	Commission administration	Continuing	Housing Department staff continue administering monthly public meetings of the HAC. The HAC meets weekly from January through March to develop its community agency allocation recommendations to the Berkeley City Council.	The HAC is highly effective at providing recommendations to the City Council on Housing Trust Fund proposals, Community Development and Emergency Shelter grant proposals from community agencies, and in hearing building and housing code appeals. They have also been instrumental in addressing condominium conversion ordinance amendment issues, and have participated actively in joint commission deliberations on Density Bonus implementation issues with the Planning Commission and the Zoning Adjustments Board.
Article XXXIV of California Constitution	Housing Department	Monitoring of Article 34 units	Continuing	The City of Berkeley voters overwhelmingly approved Measure Z in 2000 with 71.4 percent of the vote, adding 500 units of Article 34 authority to the City's capacity for financing development of new low-cost housing in Berkeley.	Since passage of Measure Z, approved new construction projects have reduced the City's remaining authority to 299 units.
Planning Commission	Planning and Development Department	Commission administration	Continuing	Planning staff continue administering public meetings of the Planning Commission every 2nd and 4th Wednesday of the month.	The Planning Commission provided recommendations to the City Council on zoning ordinance revisions intended to address a loophole in the City's inclusionary housing ordinance, providing for an inclusionary in-lieu fee for condominium units to provide greater funding for the City's Housing Trust Fund, and facilitate less controversial density bonus projects.

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Berkeley Homeless Commission	Housing Department	Commission administration	Continuing	Housing Department staff continue administering monthly public meetings of the Homeless Commission. The Homeless Commission has begun holding annual joint hearings on community needs with both the Housing Advisory Commission and the Human Welfare and Community Action Commission.	The Homeless Commission is highly effective at providing recommendations to the City Council on homeless policy matters, and homeless service provider funding proposals.
Consolidated Plan/CDBG Funding Process	Housing Department	Annual administration	Continuing	CAPERS submitted annually for PYs 2000 through 2005. Annual Action Plans completed annually for PYs 2001 through 2006. Housing Department completed a new 5-year Consolidated Plan during FY 2005 for Program Years 2005-2010.	CAPERS show that Berkeley works diligently to meet its ComPlan goals and objectives year-in and year-out. HUD issued a community assessment report praising the City's efforts in all areas of its community development programs.
Area Plan Processes	Planning & Housing Depts.	Review and implementation	Continuing	Downtown Area Plan Advisory Committee (DAPAC) is developing recommendations for the downtown area, including those related to housing density. See also Southside Plan, above.	The DAPAC recently held a public meeting and workshop on housing and homeless issues in downtown Berkeley, and will incorporate this issue in their recommended policies. Southside Plan Draft EIR is still in preparation.
General Plan/Housing Element Update Process	Planning & Housing Depts.	Annual evaluation	Continuing	Amendments requested by State HCD clarifying language in the City's conditionally certified Housing Element adopted by City Council in October 2005. Next Housing Element update is not due to State HCD until June 30, 2009.	The amendments are intended to enable State HCD to fully and unconditionally certify City of Berkeley's Housing Element as in compliance with state housing element law.

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2006 Annual Progress Report on Implementation of the Housing Element

C. Progress towards mitigating governmental constraints

Consistent with Government Code Sections 65400 and 65583(c)(3), this report addresses the City of Berkeley's progress toward mitigating governmental constraints to the maintenance, improvement and development of housing as identified in the Berkeley Housing Element. The Berkeley Housing Element identifies and describes aspects of the City's Zoning Ordinance and permit review process that have the potential to constrain development of housing. The main constraints relate to the uncertainty and length of the project review process, including:

Land use conflicts and costs of delay

- "Processing time to secure discretionary land use entitlement permits" can last from nine months to over a year. This delay incurs costs for the developers that reduce the feasibility of housing development projects.
- Other "delays through appeals of land use, landmark, or other decisions" also add to these costs.

Uncertainty of Berkeley's zoning standards

- The inability to construct residential projects as of right.
- The finding of non-detriment "lacks [a] better definition of what constitutes 'detriment'" causing uncertainty in the application process and outcome.
- The possibility of multiple appeals.
- Uncertainty makes it more difficult to secure financing and increases costs, thus deterring some development.

Inclusionary Ordinance

- In a weak housing market, inclusionary housing requirements can make housing projects less feasible.

Zoning Ordinance requirements

- The standards for parking, open space, and setbacks "can further reduce the amount of buildable space allowed on a property" and thus reduce the residential yield.

The Housing Element, as amended in 2005, describes the historical background that led to some of these constraints. The Neighborhood Preservation Ordinance (NPO), enacted in 1973 by a vote of the Berkeley electorate, set the course for Berkeley's highly discretionary development review process by requiring a use permit for nearly all new residential construction and establishing the non-detriment criterion.¹ Berkeley residents continue to insist upon a discretionary public review process for new residential and

¹ BMC Section 23B.32.040.A. "The Board may approve an application for a Use Permit, either as submitted or as modified, only upon finding that the establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City."

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commercial development that addresses neighborhood issues (such as traffic, noise, light and view impacts, and parking concerns) and the potential for community detriment. The City's use permit review process for new residential construction seeks to balance the interests of existing Berkeley residents with the need to provide additional housing for the growing Bay Area population by fulfilling the requirements of the State's Regional Housing Needs Assessment, and provide applicants with constitutional due process in consideration of their property rights to develop.

To address the increased cost of housing resulting from the reduced housing production caused by the NPO, the citizens of Berkeley enacted a Rent Stabilization Ordinance in 1980. Additionally, the City adopted an Inclusionary Ordinance that requires new development to include a percentage of below market rate units, and in 1990 the City created the Housing Trust Fund to fund permanently affordable units.

City programs that lessen the constraints on housing development described above mainly involve those improving the use permit review process.

1. Pre-application review - The Planning Department continues to use the pre-application process to provide feedback on potential development projects. This process was improved in 2006 with a formal pre-application form and fee, and remains popular with project applicants because it identifies issues early and facilitates a more efficient use permit review process.
2. Project Roundtable - Interdepartmental review early in the use permit process identifies issues before the project is approved, thus avoiding the delay of use permit modifications identified during the building permit review process. This speeds up the use permit and building permit review processes and includes fire, transportation, building code, and zoning code review.
3. Expedited Permit Processing - The Department continues to offer expedited permit processing to use permit applicants. In 2006, 26 projects made use of this service speeding up the use permit review of numerous residential and mixed-use projects. Program implementation and tracking was improved leading to roughly one-third of our workload making use of the program.
4. Fee deferrals for affordable projects - The Department continues to provide fee deferrals for affordable housing projects. In 2006, three projects totaling 201 units (two renovations, one new construction) received fee deferrals. Deferrals allow postponement of payment until the project is completed and earning income.
5. Density Bonus Joint Subcommittee - The City Council appointed a Joint Subcommittee to review the procedures for processing density bonus projects. This Subcommittee developed recommendations designed to facilitate project review and decision-making by the Zoning Adjustments Board to achieve less controversial density bonus projects, which should encourage more residential development. In September 2006, the City Council adopted recommendations prepared by staff, however they were repealed after failure of California State

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Proposition 90 and will be reviewed by the Planning Commission prior to re-adoption. The Subcommittee will continue to work on improving the review process for density bonus projects.

6. Zoning Amendments to allow Inclusionary Condo In-lieu fee – The Council adopted zoning amendments allowing a fee to be paid in lieu of providing construction of new inclusionary condo units. The in-lieu fee provides Housing Trust Fund money that can be used to create affordable housing units, and will fund the construction of a greater number of affordable units than would have otherwise been required by the City's Inclusionary Ordinance.
7. Landmarks Preservation Ordinance – In December 2006 the City Council adopted a revised ordinance that clarifies the process for designating historic buildings and requires a historic determination early in the project application process. These revisions will reduce uncertainty for applicants and speed up the project review process.
8. Downtown Area Plan – The City Council appointed a Downtown Area Plan Advisory Committee to develop recommendations for a new downtown plan. The Committee has focused on the issue of residential density in the downtown as well as special needs housing and homelessness.

To date, Berkeley has met 97% of its current RHNA goal of 1,269 units through 2006, demonstrating that Departmental efforts toward mitigating governmental constraints to development have been successful. The City has met 73%, 85%, and 31% of its Very Low, Low, and Moderate unit allocations, respectively, compared to 34%, 30%, and 29% for the Bay area as a whole. The City will continue to address these constraints to development by clarifying implementation of density bonuses and improving the development review process.

The City has also implemented programs geared towards mitigating governmental constraints to the maintenance and improvement of housing. This includes an Unreinforced Masonry program that involved the identification and required retrofit of URM buildings, including 543 residential units. The City also developed a soft-story ordinance to require the retrofit of soft-story buildings. There are over 600 residential soft-story buildings in the City. The Department is in the process of drafting zoning amendments to waive some of the discretionary zoning permits required for retrofitting of URM and soft-story buildings.